BEFORE THE LIBRARY OF CONGRESS
COPYRIGHT ROYALTY BOARD
Washington, DC

In the Matter of:	)	
	)	
Notice and Recordkeeping for Use of	)	RM 2005-2
Sound Recordings Under Statutory License	)	

COMMENTS OF RADIOIO, INC.

In response to the request by the Copyright Royalty Board ("CRB") for supplemental comments regarding rules for the delivery and format of records of use of sound recordings for statutory licenses under sections 112 and 114 of the Copyright Act, Radioio.com, LLC ("Radioio") submits the following comments.

Radioio is fully in support of the goals of SoundExchange that all artists, both those on major labels and independents, receive full and fair compensation for the music that is streamed on the internet. However, Radioio believes that the only way that a system can be developed that will fully capture all of the plays of all artists is one in which SoundExchange and other royalty collectives invest the time and money to make sure that it works properly. The nature of the streaming community is that it is diverse and independent, and only by developing tools that are easy to use, and which will work in all formats, can SoundExchange hope to capture all of the internet radio listening done on the many hundreds of internet radio stations.

The Copyright Royalty Board asks numerous specific questions about the required data fields, the content of headers, where such headers need to be included in reported information, and the delimiters used in such fields. Obviously, from the comments already filed in this proceeding, each of these questions is a matter of contention, and each is subject to multiple

answers – all of which can, in some sense be considered "correct" answers. What is really

essential to be able to compile the necessary data is a simple process, usable in connection with

most commercially available spreadsheet and database programs.

Radioio starts from the premise that SoundExchange, as the entity to be using the data,

has the unique ability to be able to transform the data into a format that it finds most useful. The

Services do not know SoundExchange's specific needs, and cannot be expected to adapt their

different record keeping technologies in a manner that will always give SoundExchange exactly

the information it wants in exactly the format that it wants it. And SoundExchange's wants and

needs may well change over time.

The Problem

The problems in each service providing identical data are legion. The CRB cannot

mandate that all music entities, from the individual webcaster operating from his or her basement

to the largest webcaster or broadcaster who may be providing hundred of streams, use the same

music tracking and reporting software. And any mandated formats must be compatible with the

many systems that are in use, and should not create confusion in execution. The CRB should

take into account the myriad differences in information collected by different services, and the

potential, especially for services like Radioio which play independent artists, that names of bands

and songs may themselves contain characters that would be confusing in many programming

formats.

Because the systems in place at various services are so disparate, it may be almost

impossible for the CRB to find that any report format would be consistent with all such systems.

For instance, the CRB has asked about Field Delimiters and Text Indicators, and suggested that

SoundExchange and NRBMLC/Salem have come to different conclusions as to the characters to

be used in a reporting scheme. In Radioio's experience, the delimiters will differ in different formats, and must be chosen with care as the names of bands and songs may well contain any character selected. For instance, Radioio plays songs with each of the following characters in the title of the song: ( ) , . " ' ? ! # $ % & - + = [] ; : < > and /. The Service also plays sound recordings from a band whose name is !!!. Thus, the use of any of these characters in a file name or as a delimiter could be problematic. While Radioio would suggest "::" as a file delimiter which works in virtually every programming language, the adjustments necessary to standard programs to ensure that this delimiter is used instead of a more common comma or other character may be beyond the technical capability of some smaller webcasters without a large or sophisticated technical department.

Even as to the most simple conventions, such as that used for dates, the CRB notes that SoundExchange and NRBMLC/Salem propose schemes that are exactly the opposite – one with the day of the month first, the other with the year first. While Radioio believes that that convention of YYYYMMDD is the most widely adopted and easiest to sort, it recognizes that systems may differ.

The CRB asks numerous questions regarding the format and content of files and headers. Radioio agrees with NRBMLC/Salem that having to include all of the data in SoundExchange's request fields 1 through 13 in each and every record of the performance of a sound recording would create massive files. Radioio believes that no more information should be provided than is necessary, as fields can get very long, and the volume of information gathered, especially if aggregated on an individual spin basis as opposed to an aggregate number of spins for a particular sound recording, could become so large as to become unmanageable by some webcasters.

The CRB asks questions about abbreviations and capitalization. Radioio submits that these issues really ignore the more fundamental issue with any sort of reporting generated by a multitude of different services. Even if all reporting is done in capitals, as suggested by SoundExchange, the nature of the music business, where artists change their names, or the spelling of their names, on different recordings, or sometimes on the same recording, make a truly accurate, service-based reporting system almost impossible. For instance, one Radioio artist could be reported in any of the following ways, each of which is arguable correct, but each of which could confuse any CRB mandated system, depriving SoundExchange of the consistency that it seeks:

NDEGE'OCELLO, ME'SHELL
NDEGEOCELLO, ME'SHELL
NDEGEOCELLO, ME'SHELL/SPIRIT MUSIC JAMIA
MESHELL NDEGE'OCELLO
ME SHELL NDEGEOCELLO
ME'SHELL NDEGEOCELLO
MISHELL NDEGEOCELLO

Given all these difficulties in reporting, Radioio believes that only SoundExchange can itself arrange data provided by the Services into consistent and usable information. This consistency and usability will assure that all artists get their just rewards from the use of their music, and can only be assured by the collective, not by the disparate and independent services.

Radioio's Proposed Solution

The problem is in the disparate methods of maintaining data, and sorting that data into usable information. Radioio believes that there is a simple solution, albeit one that will require the initial expenditure of funds by SoundExchange. In crafting a solution to this problem, Radioio initially looked to the fact that all of the Services will essentially be providing the same information – identification of the sound recordings being played. Additional information, as to which Service played a recording and as to the reporting period in which it was played, is not

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unique to the particular sound recording, but instead is common to all of the sound recordings played by a particular service during the same reporting period. The question then becomes how that information can be reported by a Service only once, but sorted in any manner which SoundExchange believes necessary to fulfill its mission.

What Radioio proposes is that SoundExchange create a secure website, where each Service can submit a report of the sound recordings that it has used in each reporting period. A secure, password-protected database would allow a service to populate certain fields with information that would not change from month to month, unless that information needed to be updated by the Service. Thus, routine fields such as the name of the service, the address, the contact person and similar information could be populated for each Service, and would reappear each time the Service filed a report of its use of sound recordings. The date of the reporting period would normally be generated automatically, subject to change by the service in circumstances such as a late-filed report.

The standard profile that each Service completes could also provide information necessary for SoundExchange to process information in disparate formats utilizing different delimiters, conventions and order of information. The Service's profile would provide the information necessary to process the information reported in any format, so that it could be sorted by SoundExchange. Radioio and its programmers use data transformation programs for its internal purposes, and for other businesses with which its programmers work, that take information similar to that which would be reported by the services, information that arrives in different formats, and transform it into consistent and uniform data that can be used by the business. As long as the Service provides information as to how its data is organized, the data

transformation program can take that data and reconfigure it into a format usable by SoundExchange.

For instance, in the Service's profile on the secure website, the Service can indicate what convention it uses for dates. If the Service reports that it uses YYYYMMDD and SoundExchange wants the information in DDMMYYYY format, the data transformation program would rearrange the Service's data into the format that SoundExchange desires. The Service could provide information as to the order in which its information is reported in the program that the Service uses – whether the information is stored as "artist, song, album" or "song, album, and artist" or "album, song, artist." If the reporting format used by the Service uses a comma as a standard field delimiter, that can be reported on the Service's profile on the secure website, and if SoundExchange prefers a "::" or some other delimiter, the data transformation program can make the necessary adjustments. These fields can be populated once by the Service, and SoundExchange's programs can make the necessary adjustments, so that the Services don't need to each month reinterpret their data into a format that will meet SoundExchange's needs. Again, given the disparate services, if this is all left to the Services, the conversions will not be standard and uniform, and a monthly conversion or a new reporting system may well pose major burdens on smaller operators.

Once these basic fields have been populated by the Service, the standard profile of the Service would be on file and would appear whenever the Service logged on to submit another report. The profile would not need to be changed, except when the Service makes a change in its processes. Radioio would envision that the website would then accept information exported from any standard program – whether it be a spreadsheet program or a standard music traffic and logging service, that could be uploaded as an attachment and processed according to the

identifying information that has been provided by the Service in its secure profile. SoundExchange would then use its data transformation program and take the data reported by the Service in whatever format the Service utilizes and put it into a data format that conforms to SoudExchange's needs. The burden for developing such transformative programs should and must be on SoundExchange, as only it will be able to assure that, once converted, all data will meet its needs for assuring accurate and fair distribution of royalties. A multitude of services cannot expect to be able to anticipate all of SoundExchange's needs, but transformative programs that SoundExchange itself develops, together with the Service profiles that Radioio suggests, should be able to translate information from the various commercially used databases into a format that SoundExchange can utilize. In this way, the collective can gather the information that it needs to properly distribute the royalties it collects to the artists who deserve it.

<div align="center"><u>Conclusion</u></div>

For the reasons set forth herein, Radioio submits that there should be a burden on SoundExchange to develop a secure, reliable system that will allow for the reporting of information from differing standard reporting programs to be taken and transformed into data usable for royalty distribution. Without such a system, Radioio submits that the CRB may be seeking to achieve the unachievable – a system of recordkeeping that is compatible with all the disparate entities in the webcasting universe – from large broadcasters with large staffs and state-of-the-art equipment, to small webcasters operating out of the owners spare bedroom, to small radio stations that may have little or no automation, to noncommercial stations with dozens of volunteer programmers keeping records on the back of old pizza boxes. Only by actions of the

collective, synthesizing the data submitted by the various services into a single accurate program,

will the shared goal of fully compensating all performers be achieved.

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RADIOIO.COM, LLC

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_____/s/_____
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